

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PAUL ANTHONY TUMA,

Petitioner,

v.

ALICE PAYNE,

Respondent.

Case No. C05-5827RJB

ORDER DENYING COUNSEL

This 28 U.S.C. § 2254 petition for habeas corpus relief has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 (b) and local Rules MJR 3 and 4. The petitioner has filed a motion for appointment of counsel. (Dkt. # 10). Respondent opposes the motion. (Dkt. # 11). Petitioner has replied. (Dkt. # 13) The matter is now ripe for review.

The Court, having reviewed the record, hereby finds and ORDERS:

(1) There is no right to have counsel appointed in cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required, because the action is civil, not criminal, in nature. See Terravona v. Kincheloe, 852 F.2d 424, 429 (9th Cir. 1988); Brown v. Vasquez, 952 F.2d 1164, 1168 (9th Cir. 1992); and Rule 8(c) of the Rules Governing Section 2254 Cases in the United States

1 District Courts. An evidentiary hearing has not been granted in this case. Further, the claims in the
2 petition are adequately set forth and articulated. Petitioner's motion for appointment of counsel (Dkt.
3 # 10) is therefore **DENIED**.

4 (2) The clerk is directed to send a copy of this Order to petitioner and counsel for
5 respondent..

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7 DATED this 13th day of March, 2006.

8 /S/ J. Kelley Arnold
9 J. Kelley Arnold
United States Magistrate Judge